

ORIGINAL

REHEARING APR 16 2009



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BEFORE THE ARIZONA CORPORATION

**COMMISSIONERS**

KRISTIN K. MAYES - Chairman

GARY PIERCE

PAUL NEWMAN

SANDRA D. KENNEDY

BOB STUMP

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AZ CORP COMMISSION  
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Arizona Corporation Commission

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*MS*

IN THE MATTER OF THE APPLICATION OF  
JOHNSON UTILITIES L.L.C. FOR  
APPROVAL TO EXTEND ITS CERTIFICATE  
OF CONVENIENCE AND NECESSITY FOR  
WATER AND SEWER SERVICES.

DOCKET NO. WS-02987A-09-0083

**STAFF'S A.R.S. § 40-253 APPLICATION  
FOR REHEARING**

Commission Staff ("Staff") hereby applies for rehearing pursuant to A.R.S. § 40-253 of Commission Decision No. 70849, docketed March 17, 2009. Ordinarily, Staff would not apply for a rehearing of a Commission order. However, in this case Staff believes that a rehearing may be warranted in light of Johnson Utilities, L.L.C.'s ("Company") failure to disclose information concerning wastewater spills that occurred a few days before the Commission voted to grant the Company a Certificate of Convenience and Necessity ("CCN") extension. Even though the Company knew or should have known from the Commission's questions at the March 3, 2009 Open Meeting that the Company's past and present actions and standing with the Arizona Department of Environmental Quality were important factors in the Commission's deliberations, the Company did not discuss its most recent wastewater spill problems.

Staff's recommendations may not have been any different if Staff had known of these new wastewater spills prior to the March 3, 2009 Open Meeting. Similarly, the Commissioners' votes may not have been different if the wastewater spills information had been disclosed. However, Staff is concerned, and believes the Commission may be equally concerned, that the Company did not disclose the occurrence of these new wastewater spills prior to the Open Meeting, or at a minimum, disclose the information during the Open Meeting when the Company heard the Commission's discussion.

If the Commission grants Staff's application for rehearing, the Hearing Division may be directed to conduct a hearing concerning recent events that were not addressed in the original evidentiary hearings, including why the Company withheld information it knew, or should have

1 known, was pertinent to the Commission's consideration of this case based on the Commissioners'  
2 questions at the March 3, 2009 Open Meeting.

3 Staff also requests that the Commission stay Decision No. 70849, so that any rights Johnson  
4 Utilities, L.L.C. may claim under the decision are stayed pending the Commission's order on  
5 rehearing.

6 RESPECTFULLY SUBMITTED this 27<sup>th</sup> day of March, 2009.

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12 Original and thirteen (13) copies  
13 of the foregoing were filed this  
14 27<sup>th</sup> day of March, 2009 with:

14 Docket Control  
15 Arizona Corporation Commission  
16 1200 West Washington Street  
17 Phoenix, Arizona 85007

17 Copy of the foregoing mailed this  
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